



MICHAEL FAILLACE & ASSOCIATES, P.C.  
Michael Faillace [MF-8436]  
110 East 59<sup>th</sup> Street, 32<sup>nd</sup> Floor  
New York, New York 10022  
(212) 317-1200  
*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
MARLON CASTRO, OCTAVIO RANGEL,  
MARTIN VASQUEZ, ALFREDO MARTINEZ,  
RODOLFO MENDEZ, GERARDO ANGULO, JUAN  
MARTINEZ, JOSE CERVANTES, SERGIO  
SANCHEZ, ISRAEL SANCHEZ, MARTINE PEREZ,  
GUILLERMO MENDOZA, OMAR CASTILLO, and  
AMANDO MARTINEZ, individually and on behalf  
of others similarly situated,

*Plaintiffs,*

-against-

SPICE PLACE, INC., SPICE AVE., INC.,  
BANGKOK PALACE II, INC., SPICE CITY, INC.,  
SPICE WEST, INC., KITLEN MANAGEMENT,  
INC., JUTTANA RIMREARTWATE,  
THANADHAM THANEESAENGSI, KARND  
VAJIRABANJONG, KEVIN LEATHERS,  
KITIGRON LIRTPANARUK, YONGYUT  
LIMLEARTVATE, and YUANYONG  
RIMREARTWATE,

*Defendants.*

-----X  
STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss.

Ramiro Lopez, being duly sworn, says:

1. I am a plaintiff in this matter and submit this affidavit in support of the plaintiffs' motion for collective action and class certification.

**07 CV 4657 (RWS)(DFE)**

**AFFIDAVIT OF  
Ramiro Lopez**

**FLSA COLLECTIVE  
ACTION**

**Rule 23 Class Action**

**ECF Case**

2. I am a resident of Queens County, New York.
3. I was hired as a dishwasher in April 2003 at the Spice restaurant located at 1411 Second Avenue (the "1411 Second Avenue location").
4. I worked six days per week--from 1:00 pm to 11:30 pm on weekdays and 1:00 pm to 12:30 am on weekends with Tuesdays off.
5. My start and stop times were recorded on a punch card.
6. I was paid \$60 per day as a dishwasher.
7. Around mid-2004, I was given a \$20 per week raise.
8. I was always paid in cash until early 2006, when Spice began paying me by check.
9. Spice never asked me for a social security number, and the social security numbers shown on my paychecks were provided by Spice
10. I never received tips as a dishwasher.
11. When I was a dishwasher, my responsibilities also included food preparation—including putting sauce on pork-chops and chicken, preparing curry puffs, slicing chicken and calamari, etc.
12. As a dishwasher, I took a 15 minute lunch break each day.
13. In September 2005, I became a delivery person.
14. I purchased a bicycle and cell phone with my own money for use as a delivery person.
15. I was given one uniform t-shirt, but has to purchase additional shirts at \$5 each.

16. As a delivery person, I worked from 11:00am to 11:30 pm on weekdays and 11:00 am to 12:30 am on weekends.

17. I was paid \$160 per week as a delivery person.

18. When I was a delivery person, I was actually required to prepare food and stock the storage room full-time while making deliveries as they came in from 11:00 am to 6:00 pm. After 6:00 pm, I made deliveries full-time.

19. I spent 30 minutes each night cleaning the restaurant's kitchen.

20. As a delivery person, I had a 20 minute lunch break, but I had to make deliveries if they came in during my lunch break.

21. I never saw minimum wage posters at the restaurants until approximately 2006.

22. I received tips from customers as a delivery person, but I was never told that the tips would be counted towards my wages.

23. Around January 2006, Tom (the chef) told me that I could only work 40 hours per week at the 1411 Second Avenue location, and that if I wanted additional hours I would have to work those hours at a different location.

24. I worked at a different location called See at 75 Second Avenue for one day per week on approximately three occasions in early 2006.

25. For the weeks that I worked at See, I received two separate paychecks with two different social security numbers—one for the hours I worked at the 1411 Second Avenue location and one for the hours I worked at See.

26. I currently work 40 hours per week at the 1411 Second Avenue location only.

27. When I was a dishwasher, there were four delivery persons at the 1411 Second Avenue location: Caterino de los Santos, Umberto Badillo, Umberto Otilica, and a person named Ramiro whose last name I cannot recall.

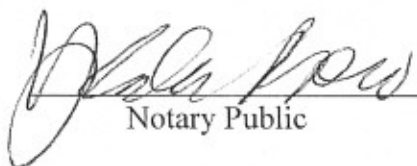
28. When I was delivery person, there were four other delivery persons: Caterino de los Santos, Umberto Badillo, Martine Perez, and Umberto Otilica.

29. All the delivery persons had the same responsibilities I had as a delivery person—including food preparation, stocking supplies, cleaning, and deliveries.



Ramiro Lopez

Sworn to before me  
this 12<sup>th</sup> day of April 2008.

  
Notary Public

YOLANDA RIVERO  
Notary Public, State of New York  
No. 02R18061504  
Qualified in Queens County  
Commission Expires July 16, 2011

# EXHIBIT F

v-04657-RWS

Document 59-4

Filed 05/22/2008

F



MICHAEL FAILLACE & ASSOCIATES, P.C.  
Michael Faillace [MF-8436]  
110 East 59<sup>th</sup> Street, 32<sup>nd</sup> Floor  
New York, New York 10022  
(212) 317-1200  
*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
MARLON CASTRO, OCTAVIO RANGEL,  
MARTIN VASQUEZ, ALFREDO MARTINEZ,  
RODOLFO MENDEZ, GERARDO ANGULO, JUAN  
MARTINEZ, JOSE CERVANTES, SERGIO  
SANCHEZ, ISRAEL SANCHEZ, MARTINE PEREZ,  
GUILLERMO MENDOZA, OMAR CASTILLO, and  
AMANDO MARTINEZ, individually and on behalf  
of others similarly situated,

*Plaintiffs,*

-against-

SPICE PLACE, INC., SPICE AVE., INC.,  
BANGKOK PALACE II, INC., SPICE CITY, INC.,  
SPICE WEST, INC., KITLEN MANAGEMENT,  
INC., JUTTANA RIMREARTWATE,  
THANADHAM THANEESAENGSI, KARNDA  
VAJIRABANJONG, KEVIN LEATHERS,  
KITTIGRON LIRTPANARUK, YONGYUT  
LIMLEARTVATE, and YUANYONG  
RIMREARTWATE,

*Defendants.*

-----X  
STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss.

**Caterino de los Santos**, being duly sworn, says:

1. I am a plaintiff in this matter and submit this affidavit in support of the plaintiffs' motion for collective action and class certification.

**07 CV 4657 (RWS)(DFE)**

**AFFIDAVIT OF  
Caterino de los Santos**

**FLSA COLLECTIVE  
ACTION**

**Rule 23 Class Action**

**ECF Case**

2. I am a resident of Queens County, New York.

3. I worked as a delivery person at Spice from approximately May 2001 to November 2004 at the 1411 Second Avenue location.

4. I worked 11 am to 11:30 pm on weekdays, and 11 am to 12:30 am on Fridays and Saturdays, with Tuesdays off.

5. My arrival and departure times were recorded with a punch card.

6. From 11 am to 6 pm each day, I was required to stock items in the storage room, cut chicken, peel shrimp, chop vegetables, and bring food from the storage room for the cooks in addition to making deliveries. After 6 pm, I made deliveries full time.

7. At the end of each day, I had to spend approximately 30 minutes washing the kitchen with the other delivery persons.

8. The other delivery persons at 1411 Second Avenue—including Umberto Badillo, Martine Perez, Ramiro Lopez, and Jose Castillo—worked the same schedule as me and were also required to prepare food, stock the storage room, and clean in addition to making deliveries.

9. I was paid \$160 per week.

10. I never saw any posters telling me I was entitled to minimum wage and overtime under the law.

11. I received tips from customers, but was never told that the tips would be counted toward my salary.

12. I was always paid in cash.

13. I was required to purchase a bicycle, cell phone, and uniform t-shirts to use as a delivery person.



Caterino de los Santos

Sworn to before me  
this 12<sup>th</sup> day of April 2008.



Notary Public

YOLANDA RIVERO  
Notary Public, State of New York  
No. 02RI6061584  
Qualified in Queens County  
Commission Expires July 16, 2011

# EXHIBIT G

MICHAEL FAILLACE & ASSOCIATES, P.C.  
Michael Faillace [MF-8436]  
110 East 59<sup>th</sup> Street, 32<sup>nd</sup> Floor  
New York, New York 10022  
(212) 317-1200  
*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
MARLON CASTRO, OCTAVIO RANGEL,  
MARTIN VASQUEZ, ALFREDO MARTINEZ,  
RODOLFO MENDEZ, GERARDO ANGULO, JUAN  
MARTINEZ, JOSE CERVANTES, SERGIO  
SANCHEZ, ISRAEL SANCHEZ, MARTINE PEREZ,  
GUILLERMO MENDOZA, OMAR CASTILLO, and  
AMANDO MARTINEZ, individually and on behalf  
of others similarly situated,

*Plaintiffs,*

-against-

SPICE PLACE, INC., SPICE AVE., INC.,  
BANGKOK PALACE II, INC., SPICE CITY, INC.,  
SPICE WEST, INC., KITLEN MANAGEMENT,  
INC., JUTTANA RIMREARTWATE,  
THANADHAM THANEESAENGSI, KARND  
VAJIRABANJONG, KEVIN LEATHERS,  
KITIGRON LIRTPANARUK, YONGYUT  
LIMLEARTVATE, and YUANYONG  
RIMREARTWATE,

*Defendants.*

-----X  
STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss.

Israel Rodriguez Sanchez, being duly sworn, says:

1. I am a plaintiff in this matter and submit this affidavit in support of the plaintiffs' motion for collective action and class certification.

**07 CV 4657 (RWS)(DFE)**

**AFFIDAVIT OF  
Israel Rodriguez Sanchez**

**FLSA COLLECTIVE  
ACTION**

**Rule 23 Class Action**

**ECF Case**

2. I am a resident of Queens County, New York.

3. I was employed as a delivery person at Spice restaurant from 2000 to 2007. I was at the 60 University Place location from 2001 to 2007.

4. I worked 11 am to 11 pm on weekdays, and from 11 am to 12:30 or 1 am on Friday and Saturday.

5. I had Thursdays off, except for one month in 2002 when I was required to work seven days per week.

6. I had no lunch break, and when I tried to eat I was often required to receive deliveries and bring items to the kitchen from storage.

7. Although I was employed as a delivery person, I was also required to clean the basement storage area and sidewalk each morning, carry supplies from the sidewalk to the basement storage area and stock it, bring ingredients and supplies from storage to the kitchen, trim the fat from chicken, cut shrimp, calamari and chicken, and chop vegetables until many deliveries began coming in—usually around 5 or 6 pm. Once many delivery orders came in, I made deliveries full-time.

8. At the end of each day, I had to take out the garbage, help put away food and supplies from the kitchen, and clean the basement.

9. The other delivery persons at 60 University—including Octavio Rangel, Rodolpho Mendez, Amado Mendez, Juan Martinez, Gerardo Angulo, Marlon Castro, Epidio (last name unknown), Marcos (last name unknown), Mario (last name unknown)—worked the same schedule and had the same additional responsibilities that I had.

10. I was paid \$180 per week when I started, and received a raise to \$240 per week in 2002.

11. I received tips from customers, but was never informed that they would be counted towards my salary.

12. I was paid in cash until February or March 2006, when Spice began paying me by check.

13. Spice never requested my social security number, and the social security number reflected on my pay checks were invented by Spice.

14. Starting in approximately February 2006, I was required to split my schedule between 60 University Place and the Chelsea location in order to work more than 40 hours per week.

15. I began working at the Chelsea location three days per week and at the University Place location three days per week from February to May 2006.

16. During the time that I worked at both the University Place and Chelsea locations, I received two separate pay checks with two different social security numbers—one for the hours worked at University Place, and one for the hours worked at Chelsea.

17. I also was required to work at See restaurant sometimes when they were understaffed, and for those weeks I received an additional paycheck with a different social security number for the hours worked at See.

18. I questioned my general manager Gin about the social security numbers, and she told me “that’s what the central office sent us. If you have a problem, speak to them.”

19. My start and departure times each day were recorded on a time-punch card until approximately March 2006, when I began recording hours by typing an identification number into a computer or swiping a card.

20. If I did not punch in or out, I was not paid for the day.

21. I never saw any minimum wage posters at the restaurant until approximately 2006.

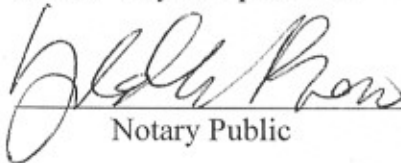
22. I was required to purchase a bicycle and cell phone with my own money.

23. My bicycle was stolen from the main dining room one morning when another employee left the door open, and I was required to replace it with my own money.



Israel Rodriguez Sanchez

Sworn to before me  
this 12<sup>th</sup> day of April 2008.

  
Notary Public

YOLANDA RIVERO  
Notary Public, State of New York  
No. 02R16061584  
Qualified in Queens County  
Commission Expires July 19, 2011



# EXHIBIT H

MICHAEL FAILLACE & ASSOCIATES, P.C.  
Michael Faillace [MF-8436]  
110 East 59<sup>th</sup> Street, 32<sup>nd</sup> Floor  
New York, New York 10022  
(212) 317-1200  
*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
MARLON CASTRO, OCTAVIO RANGEL,  
MARTIN VASQUEZ, ALFREDO MARTINEZ,  
RODOLFO MENDEZ, GERARDO ANGULO, JUAN  
MARTINEZ, JOSE CERVANTES, SERGIO  
SANCHEZ, ISRAEL SANCHEZ, MARTINE PEREZ,  
GUILLERMO MENDOZA, OMAR CASTILLO, and  
AMANDO MARTINEZ, individually and on behalf  
of others similarly situated,

*Plaintiffs,*  
-against-

SPICE PLACE, INC., SPICE AVE., INC.,  
BANGKOK PALACE II, INC., SPICE CITY, INC.,  
SPICE WEST, INC., KITLEN MANAGEMENT,  
INC., JUTTANA RIMREARTWATE,  
THANADHAM THANEESAENGSI, KARNDA  
VAJIRABANJONG, KEVIN LEATHERS,  
KITTIGRON LIRTPANARUK, YONGYUT  
LIMLEARTVATE, and YUANYONG  
RIMREARTWATE,

*Defendants.*

-----X  
STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss.

Jose Castillo, being duly sworn, says:

1. I am a plaintiff in this matter and submit this affidavit in support of the plaintiffs' motion for collective action and class certification.

07 CV 4657 (RWS)(DFE)

**AFFIDAVIT OF  
JOSE CASTILLO**

**FLSA COLLECTIVE  
ACTION**

**Rule 23 Class Action**

**ECF Case**

2. I am a resident of Queens County, New York.
3. I worked as delivery person, a food preparer and a clean up person for the Spice restaurants, defendants in this lawsuit, from about January 2002 to date, at 1411 Second Avenue between 74<sup>th</sup> Street and 73<sup>rd</sup> Street in Manhattan
4. I worked from 11:00 am to 11:30 pm Sundays through Wednesdays, on Fridays and Saturday, from 11:00am until 12:30am
5. I cut and cleaned vegetables, cleaned seafood, cleaned the kitchen and washed the floors
6. I bought a bicycle for my job at Spice which I used to do deliveries
7. I got paid in cash every Sunday, the amount that I got paid was approximately \$225 per week.
8. Approximately in 2006 Spice started paying us in check, and I received \$134 per week.
9. In addition to my wages, I also earned tips from the Spice customers of approximately \$45 a day.
10. From the tips I earned, I had to give \$3 to the manager to be paid to the person packing the deliveries.
11. We only ate when the chef said for a few minutes at about 5:00 pm.

12. When I began working at Spice I had to punch a time card at the start of the day and at the end of the day.

13. Sometime in 2005, the system changed and I had to swipe a card in a machine that recorded the hours of work.

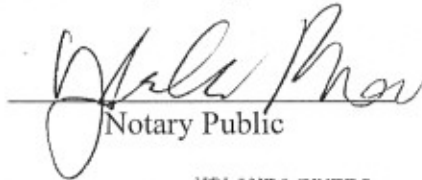
14. I have never seen a poster at Spice with information about the minimum wage or overtime laws.

15. The Spice restaurant never informed me that they were going to take a tip credit towards my wages, and I never received overtime compensation for the hours I worked over forty in a workweek.



Jose Castillo

Sworn to before me  
this 12<sup>th</sup> day of April 2008.

  
Notary Public

**YOLANDA RIVERO**  
Notary Public, State of New York  
No. 02FI6061584  
Qualified in Queens County  
Commission Expires July 18, 2011

# EXHIBIT I

04657-RWS

Document 59-4

Filed 05/22/2008

MICHAEL FAILLACE & ASSOCIATES, P.C.  
Michael Faillace [MF-8436]  
110 East 59<sup>th</sup> Street, 32<sup>nd</sup> Floor  
New York, New York 10022  
(212) 317-1200  
*Attorneys for Plaintiffs*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MARLON CASTRO, OCTAVIO RANGEL,  
MARTIN VASQUEZ, ALFREDO MARTINEZ,  
RODOLFO MENDEZ, GERARDO ANGULO, JUAN  
MARTINEZ, JOSE CERVANTES, SERGIO  
SANCHEZ, ISRAEL SANCHEZ, MARTINE PEREZ,  
GUILLERMO MENDOZA, OMAR CASTILLO, and  
AMANDO MARTINEZ, individually and on behalf  
of others similarly situated,

*Plaintiffs,*

-against-

SPICE PLACE, INC., SPICE AVE., INC.,  
BANGKOK PALACE II, INC., SPICE CITY, INC.,  
SPICE WEST, INC., KITLEN MANAGEMENT,  
INC., JUTTANA RIMREARTWATE,  
THANADHAM THANEESAENGSI, KARND  
VAJIRABANJONG, KEVIN LEATHERS,  
KITTIGRON LIRTPANARUK, YONGYUT  
LIMLEARTVATE, and YUANYONG  
RIMREARTWATE.

*Defendants.*

STATE OF NEW YORK )  
 )  
COUNTY OF NEW YORK ) ss.

Marlon Castro, being duly sworn, says:

1. I am a plaintiff in this matter and submit this affidavit in support of the plaintiffs' motion for collective action and class certification.

07 CV 4657 (RWS)(DFE)

**AFFIDAVIT OF**  
**Marlon Castro**

**FLSA COLLECTIVE ACTION**

### Rule 23 Class Action

## ECF Case



2. I am a resident of Kings County, New York.

3. I worked as a delivery boy, a food preparer, and a clean up person for the Spice restaurants, defendants in this lawsuit, from in or about July 2000 through April 14, 2007, at various locations throughout the City of New York.

4. These included the following locations: Second Avenue between 74<sup>th</sup> Street and 73<sup>rd</sup> Street in Manhattan; 199 8<sup>th</sup> Avenue, New York, NY 10011 ("Spice Chelsea"); and 10 University Place ("Spice/ University Place").

5. I worked six days a week from 11:00 am to 12:00 am midnight.

6. Although I worked part time as a delivery person, about half the time I also had to do many other tasks; for instance, I prepared the vegetables, cleaned seafood, cleaned the kitchen and washed the floors

7. I bought a bicycle for my job at Spice which I used to do deliveries at the restaurant.

8. I got paid in cash every Sunday; the amount that I got paid was approximately \$140 per week.

9. In addition to my wages, I also earned tips from the Spice restaurant customers of approximately \$40 a day.

10. From the tips I earned, I had to give \$3 to the manager for the person packing the deliveries.

11. Approximately in 2005, Spice started paying us by check, and I received \$70 per week in wages.

12. There is no fixed meal break at the restaurant.

13. We ate whenever the chef said we could and we only had a few minutes to eat.

14. When I began working at Spice, I had to punch a time card at the start of the day and also at the end of the day.

15. The time cards were only used to make deductions from my wages if I arrived late.

16. Sometime in 2005, the system changed, and I had to swipe a card in a machine that records my hours of work.

17. If I arrived late to work, they deducted \$5 for every 15 minutes of my lateness.

18. I have never seen a poster at Spice with information about the minimum wage and overtime laws.

19. The Spice Restaurant never informed me that they were going to take a tip credit towards my wages, and I never received overtime compensation for the hours I worked over forty per week.

  
\_\_\_\_\_  
Marlon Castro

Sworn to before me  
this 12<sup>th</sup> day of April 2008.

  
\_\_\_\_\_  
Notary Public

**YOLANDA RIVERO**  
Notary Public, State of New York  
No. 02R16061584  
Qualified in Queens County  
Commission Expires July 16, 2011